

**ADDENDUM ONE
TO INTERLOCAL AGREEMENT BETWEEN
THE CITY OF COLLEGE STATION
AND
TEXAS A&M UNIVERSITY**

This Agreement is effective as of the 17th day of July, 2001, by and between **TEXAS A&M UNIVERSITY**, (hereafter referred to as "TAMU") a member of THE TEXAS A&M UNIVERSITY SYSTEM, and the **CITY OF COLLEGE STATION**, (hereafter referred to as "COLLEGE STATION").

WHEREAS, COLLEGE STATION and TAMU executed an Interlocal Agreement effective the 1st day of February, 1999 (the "1999 Agreement"), for the construction, maintenance, and operation of a joint-use Fire Station; and

WHEREAS, TAMU and COLLEGE STATION agree further refinement of that agreement is needed regarding Aircraft Rescue and Fire Fighting ("ARFF") protection for Easterwood Airport; and

WHEREAS, TAMU and COLLEGE STATION have further agreed discussions have now advanced to the point where an Addendum ("First Addendum") to the 1999 Agreement is necessary to establish the respective benefits and obligations of **TAMU and COLLEGE STATION** for airport Aircraft Rescue and Fire Fighting protection;

NOW, THEREFORE, in consideration of the recitals and mutual covenants made by **TAMU and COLLEGE STATION** to be respectively kept and performed, the parties agree as follows:

SECTION I.

PURPOSE OF ADDENDUM

1.1 The purpose of this First Addendum is to establish the responsibilities of TAMU and COLLEGE STATION regarding Aircraft Rescue and Fire Fighting personnel and equipment requirements, operational responsibilities, command and control, and the term of this Addendum.

SECTION II.

DEFINITION OF TERMS

2.1. Throughout this First Addendum, the meaning of words and phrases will be the same as the 1999 Agreement, except the added words and phrases have the following meanings unless the context clearly indicates otherwise:

- (a) Airport Liaison: A TAMU employee or agent trained to FAA standards, knowledgeable of airport rules and regulations, and knowledgeable of the Aircraft Rescue and Fire Firefighting functions to be performed pursuant to this First Addendum.
- (b) ARFF Vehicles: Aircraft Rescue and Fire Fighting Vehicles with associated equipment owned by TAMU and specifically designed for the purpose of providing Aircraft Rescue and Firefighting capabilities.
- (c) Emergency Alert: Emergency conditions as defined in the Easterwood Airport Emergency Plan.
- (d) Emergency Plan: The Easterwood Airport Emergency Plan currently in effect or as may be amended by mutual consent of TAMU and COLLEGE STATION.
- (e) Fire Fighting Agents: A generic term used for materials such as water, foam, dry chemical, or carbon dioxide used for the extinguishment of fires.

- (f) Incident Command: A standardized organizational structure used to command and control tactical operations needed to stabilize an incident. The concept is further defined in the Emergency Plan.
- (g) Operator's Maintenance: Common maintenance such as noting obvious vehicle defects or malfunctions, checking operating fluid levels, checking tire air pressure, etc., to ensure that the equipment is maintained in a state of readiness.
- (h) Organizational Maintenance: Skilled maintenance such as those commonly performed by a technician or mechanic.
- (i) Unified Command System: A shared command function consisting of the COLLEGE STATION Incident Commander or designee and TAMU Director of Aviation or designee, as further defined in the Emergency Plan.

SECTION III. TERM OF ADDENDUM

3.1. The term of this First Addendum will be from 8:00 a.m. on the 1st day of OCTOBER, 2001, to 12:00 p.m. on the 31st day of January, 2004. This First Addendum may remain in effect no longer than the termination date of the 1999 Agreement. The terms and conditions of this First Addendum may be incorporated in any renewal of the 1999 Agreement under such terms and conditions as TAMU and COLLEGE STATION may agree. Negotiations for any renewal must commence no later than six (6) months and be concluded three (3) months prior to the termination date of the 1999 Agreement.

3.2. This First Addendum may be terminated by either party without specifying the cause for such termination at any time during the first year of operation provided that the parties are granted up to ninety (90) days to procure or reassign ARFF crew(s). Thereafter, this First

Addendum will expire on its regular termination date if it is the desire of either **TAMU** or **COLLEGE STATION** to terminate, without cause, the relationship established by this First Addendum within the initial term of the 1999 Agreement.

3.3. This First Addendum may be terminated for cause upon ninety (90) days written notice for the following reasons:

3.3.1 Termination of the 1999 Agreement for any reason.

3.3.2. A material breach of any term or condition of this First Addendum which remains uncured during the entire notice period.

3.3.3. Noncompliance by **COLLEGE STATION** ARFF personnel with FAA and Easterwood Airport rules, regulations, and/or guidelines reported in writing by the Airport Liaison pursuant to Paragraph 7.2.2 which remains uncured during the entire notice period. No such written report by the Airport Liaison shall constitute or be construed as notice of termination.

3.3.4. Lack of funds or other financial exigency on the part of **TAMU** or **COLLEGE STATION**.

3.3.5. The Texas A&M University System's or the State of Texas' actual closure of Easterwood Airport or transfer of operational control over Easterwood Airport to any third party.

3.3.6. The Texas A&M University System or the State of Texas transfer of ownership to or leasing of Easterwood Airport.

3.4. This First Addendum may be terminated at any time by **TAMU** for any material breach of any term or condition of this First Addendum caused by **COLLEGE STATION ARFF** personnel and resulting in a limitation of air carrier operations pursuant to Special Federal Aviation Regulation, §139.343, provided notice of said termination is provided within fifteen (15) days of the incident from which such limitation arises.

3.5. Termination of this First Addendum shall not result in the termination of the 1999 Agreement unless separate grounds for termination exist under the 1999 Agreement and one or both parties elect to exercise their termination rights thereunder with notice to the other.

SECTION IV. FIRE STATION FACILITY AND EQUIPMENT

4.1. **COLLEGE STATION** expressly acknowledges a significant portion of the funds used in the construction of the Fire Station were from a grant by the FAA and as a result, certain aspects of use are mandated by FAA Rules and Regulations.

4.2. As part of the ARFF equipment, **COLLEGE STATION** agrees it is responsible for maintaining, and replacing when reasonably necessary, furnishings and/or equipment for ARFF operations as set out in **Exhibit "A"** attached to and made a part of this First Addendum.

4.3. As part of the ARFF equipment, **TAMU** agrees it is responsible for maintaining, and replacing when reasonably necessary, furnishings and/or equipment for ARFF operations as set out in **Exhibit "B"** attached to and made a part of this First Addendum.

**SECTION V.
ARFF PERSONNEL**

5.1. **COLLEGE STATION** will provide one (1) person per each assigned twenty-four (24) hour shift to staff an ARFF vehicle.

5.2. **TAMU** will provide one (1) person to perform duties of Airport Liaison between the FAA, **TAMU** (through the Director of Aviation or his or her designee), and **COLLEGE STATION** (through the Fire Chief or his or her designee).

**SECTION VI.
INSURANCE**

6. **COLLEGE STATION** and **TAMU** agree that **COLLEGE STATION** shall provide insurance for liability arising from the use or operation of ARFF vehicle(s) (identified in **Exhibit "B"**) by **COLLEGE STATION** employees or agents.

**SECTION VII.
COMMAND AND CONTROL**

7.1. **GENERALLY:** The parties each acknowledge this First Addendum is subject to the requirements of the Federal Aviation Administration as that agency may from time to time promulgate. Both parties agree to modify and renegotiate the 1999 Agreement and this First Addendum as may be required to conform to any FAA rules or regulations.

7.2. **OPERATIONAL CONTROL.**

7.2.1. **COLLEGE STATION** shall provide day to day operational control of the fire fighting functions and services to be provided pursuant to this First Addendum. Such control shall be exercised by the College Station Fire Department Officer in charge of Emergency Operations and shall extend to all Fire Station personnel employed by

COLLEGE STATION. All direct control, including but not limited to discipline and dismissal, over COLLEGE STATION personnel is retained by COLLEGE STATION.

7.2.2. **TAMU** shall provide an Airport Liaison to ensure that the fire station facility, equipment, and operations are in compliance with FAA and Easterwood Airport rules, regulations, and/or guidelines. The liaison shall be responsible for reporting any noncompliance with such rules, regulations, and/or guidelines to the COLLEGE STATION Fire Chief and TAMU Director of Aviation. The liaison shall also facilitate communications and coordinate joint actions as contemplated by this First Addendum between **COLLEGE STATION** and **TAMU**.

7.2.3. The TAMU Director of Aviation and COLLEGE STATION Fire Chief shall endeavor to promulgate procedures that may be jointly adopted by each of them for the operation, maintenance and administration of the Fire Station. Any procedures so adopted shall conform to the Emergency Plan, which shall control in the event of any inconsistent provisions. No procedures so adopted shall in any manner change, modify or amend this First Addendum. In the event of an irreconcilable difference of opinion by and between **TAMU** and **COLLEGE STATION** regarding the wording of, or subsequent interpretation, of a procedure, the matter will be presented to the TAMU Vice President for Administration, for resolution.

7.3. **EMERGENCY CONTROL.**

7.3.1. **COLLEGE STATION** and **TAMU** agree to establish a Unified Command System as outlined in the Emergency Plan during any emergency response, drill, or exercise conducted at Easterwood Airport.

7.3.2. **COLLEGE STATION** shall provide Incident Command for any emergency alert that occurs at Easterwood Airport.

7.2.3. **TAMU** shall provide Command and Control of Easterwood Airport facilities and runways during any emergency at Easterwood Airport.

SECTION VIII. ARFF TRAINING

8.1 **COLLEGE STATION** agrees to train personnel provided by **COLLEGE STATION** in accordance with FAA and Texas Fire Commission standards.

8.2 **COLLEGE STATION** and **TAMU** agree that requests for use of the Airport or other **TAMU** facilities for training, excluding the Fire Station, shall be approved in writing by the **TAMU** Director of Aviation or his designee, whose approval shall not be unreasonably withheld.

8.3 **COLLEGE STATION** will maintain and make available for inspection at the request of the FAA and/or **TAMU** the training records of all ARFF personnel in accordance with the requirements of Part 139 of the Special Federal Aviation Regulations.

8.4. **TAMU** agrees to train personnel provided by **TAMU** in accordance with FAA standards.

SECTION IX. ARFF OPERATIONS

9.1. **COLLEGE STATION.**

9.1.1. **COLLEGE STATION** agrees to staff an ARFF vehicle provided by **TAMU** three hundred sixty-five (365) days per year, twenty-four (24) hours per day.

9.1.2. **COLLEGE STATION** personnel shall conduct daily inspections and perform Operator's Maintenance on the ARFF vehicle(s) kept by **TAMU** at the Fire Station.

Such personnel shall report observed organizational maintenance needs of such ARFF vehicle(s) to the Airport Liaison or his designee. **COLLEGE STATION** understands that usage of ARFF vehicle(s) is restricted to Easterwood Airport operations.

9.1.3. **COLLEGE STATION** personnel shall conduct basic inspections, maintenance, and certification per Texas Fire Commission requirements on the Fire Station's breathing air system.

9.2. **TAMU.**

9.2.1. **TAMU** shall perform necessary organizational maintenance on ARFF vehicles, to include replacement when reasonably necessary. **TAMU** acknowledges it is responsible for maintaining the ARFF vehicles in conformance with FAA standards. Compliance with this requirement is the sole responsibility of the **TAMU** Director of Aviation.

9.2.2. **TAMU** shall replace the components of the breathing air system located in the Fire Station as required to meet Texas Fire Commission regulations.

9.2.3. **TAMU** shall remain solely responsible for making any and all environmental reports required by law concerning any operation, activity, or incident occurring on **TAMU** owned property.

SECTION X.
OPERATIONAL EXPENSES

10.1. **COLLEGE STATION.**

10.1.1. **COLLEGE STATION** shall be responsible for all expenses relating to training, personal protective equipment, and other needs of its personnel.

10.1.2. **COLLEGE STATION** agrees it is responsible for the replacement of fire fighting agents used during live-fire training burns.

10.1.3. **COLLEGE STATION** shall be responsible for all expenses associated with the routine maintenance and certification costs of the Fire Station's breathing air system.

10.2. TAMU.

10.2.1. **TAMU** shall pay **COLLEGE STATION** a base amount of one hundred fifty-five thousand dollars (\$155,000) annually, increased by three percent (3%) per annum for so long as this First Addendum remains in effect, for the purpose of providing Aircraft Rescue and Firefighting functions at Easterwood Airport. Such payment shall be made not later than the 10th business day after the effective date of this First Addendum, and, subsequently, not later than each anniversary date of this First Addendum.

10.2.2. **TAMU** shall be responsible for the provision of and all expenses associated with organizational maintenance for the ARFF vehicles as required to satisfy FAA requirements.

10.2.3. **TAMU** shall provide all fuel, oil, and other ARFF vehicle fluids.

10.2.4. **TAMU** shall provide for replacement of fire fighting agents used by the ARFF equipment during any airport emergency.

**SECTION XI.
CIVIL LIABILITY AND INDEMNITY**

11.1. COLLEGE STATION and TAMU expressly acknowledge and agree that all activities conducted by COLLEGE STATION at Easterwood Airport pursuant to this First Addendum constitute or shall be construed as fire protection services for which TAMU

would have been responsible for furnishing in the absence of this First Addendum. TAMU expressly acknowledges and agrees, notwithstanding any contrary provisions herein, that it is solely responsible for any civil liability that arises from the furnishing of those services in accordance with and pursuant to TEXAS GOVERNMENT CODE §791.006, regardless of whether the services are provided in whole or in part by COLLEGE STATION under this Interlocal Agreement.

SECTION XII. CONTRACTUAL AGREEMENT

12.1. COLLEGE STATION and TAMU expressly agree this First Addendum is intended to be and should be construed as a contractual document which supplements the 1999 Agreement. The covenants and agreements contained in the 1999 Agreement remain in force to the degree they do not conflict with this First Addendum.

12.2. It is expressly acknowledged by the parties that this First Addendum controls ARFF functions on Easterwood Airport and is subject to FAA rules and regulations which control TAMU's discretion regarding ARFF related issues.

IN WITNESS OF THIS AGREEMENT, COLLEGE STATION and TAMU, through their duly appointed agents, have executed this First Addendum in duplicate originals.

EXECUTED this the 17th day of July, 2001 by
TAMU.

"TAMU"
TEXAS A&M UNIVERSITY

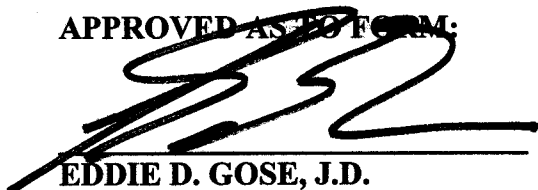
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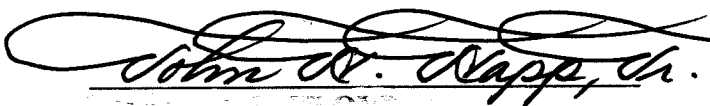

WILLIAM B. KRUMM
Vice President for Finance and Controller

RECOMMEND APPROVAL:

APPROVED AS TO FORM:


CHARLES A. SIPPAL, SR.
Vice President for Administration


EDDIE D. GOSE, J.D.
Associate General Counsel
Office of General Counsel
The Texas A&M University System

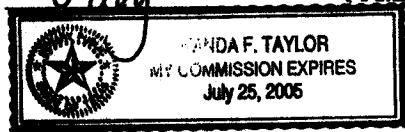

JOHN H. HAPP, JR.
Director of Aviation

ACKNOWLEDGEMENT

STATE OF TEXAS §
 §
COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared William B. Krumm, Vice-President for Finance, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed it for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 17th day of July, A.D. 2001.



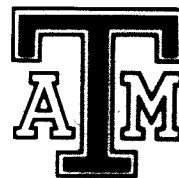
Wanda F. Taylor
Notary Public, State of Texas
My Commission Expires: 7/25/05

EXECUTED this the 17th day of July, 2001 by
COLLEGE STATION.

"COLLEGE STATION"
CITY OF COLLEGE STATION

By: _____

LYNN McILHANEY
Mayor



ATTEST:

APPROVED AS TO FORM:

CONNIE HOOKS
City Secretary

JOSEPH D. JACKSON, J.D.
College Station Asst. City Attorney

ACKNOWLEDGEMENT

STATE OF TEXAS §
§
COUNTY OF BRAZOS §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **LYNN McILHANEY**, Mayor of College Station, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed it for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, A.D. 2001.

Notary Public, State of Texas
My Commission Expires: _____

EXHIBIT A
MISCELLANEOUS EQUIPMENT
PROVIDED BY
COLLEGE STATION

1. One mobile VHF radio
2. One portable VHF radio
3. Uniforms for personnel
4. Protective clothing (3 sets)
5. Three pagers
6. Aluminized protective clothing (6 sets)

EXHIBIT B
MISCELLANEOUS EQUIPMENT/PERSONNEL
PROVIDED BY
EASTERWOOD AIRPORT (TAMU)

1. Two ARFF vehicles and associated equipment
2. One personnel to function as liaison between College Station Fire Department and Easterwood Airport staff.